

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
DAVID BRILEY, MAYOR

EXECUTIVE ORDER NO. 011

SUBJECT: *Advancing Access to Metro Services and Public Safety*

I, David Briley, Mayor of the Metropolitan Government of Nashville and Davidson County, by virtue of the power and authority vested in me, do hereby find, direct and order the following:

I. Preamble.

Whereas, we are a stronger city and nation when our neighbors feel safe when they leave their homes. Today, many Nashvillians are afraid to leave their homes because they fear being arbitrarily separated from their families. In fact, many of the systems that are in place to ensure our wellbeing and safety are crippled when all of us cannot participate freely in them; and

Whereas, last year, our State enacted a law (HB2315) that creates unwarranted fear in Nashville. HB2315 keeps parents from going to their children's schools. It prevents babies from getting well check-ups or, worse, seeking emergency medical care. It keeps the elderly locked inside their homes, with no access to help should they need it. It results in families going hungry, and citizens being afraid to report crimes in their neighborhoods. It is immoral. It is bad for business. It is dangerous. And, it is not at all reflective of who we are as a State, City or a community; and

Whereas, for these reasons and more, I am calling on the Davidson County delegation of the Tennessee General Assembly to fight to repeal HB2315. I will dedicate the City and the full weight of this office in support of this effort; and

Whereas, I am also calling on the Metro Director of Law to investigate all grounds, including violation of the Tennessee and United States Constitutions, to challenge the legality of HB2315 and to take any action warranted by existing law or good faith argument for extension of existing law; and

Whereas, after HB2315. is successfully repealed or overturned, I will immediately take the actions set forth in Section VI. Of this Executive Order, authoritatively and affirmatively, on behalf of all who call Nashville home. Meanwhile, all Metro employees should know that they will not be disciplined by this city or their supervisors for failure to comply with requests from Immigration and Customs Enforcement unless required by state or federal law, or by court order.

Whereas, while the City vigorously pursues the overturn of HB2315., I am taking the following executive actions on behalf of Nashville's immigrant and refugee communities:

II. Persons covered. This Executive Order applies to all employees of the Metropolitan Government except: employees of the Nashville Electric Service, Metropolitan Nashville Airport Authority, Metropolitan Nashville Public Schools, Metropolitan Development and Housing Agency, Metropolitan Transit Authority, Metropolitan Sports Authority, the

Metropolitan Hospital Authority, and elected officials, due to their independent governing authority. I hereby request that elected officials, Metropolitan Nashville Public Schools, Nashville Electric Service, Metropolitan Nashville Airport Authority, Metropolitan Sports Authority, and the Metropolitan Hospital Authority consider adopting a similar policy for the employees under their authority.

III. Definitions. The following terms wherever used in this Order shall have the following meanings:

- 1) "Citizenship or immigration status" means an individual's recorded citizenship or immigration status, as such status is defined in federal law.
- 2) "Metro agency" means every Metropolitan Government of Nashville and Davidson County department, agency, division, commission, council, committee, board, other body established by the Metropolitan Charter or by ordinance other than those entities listed in Section II. above.
- 3) "Metro employee or agent" means any person employed by or acting on behalf of an agency or an entity contracted by a Metro agency.
- 4) "Contact information" means home address, work address, telephone number, electronic mail address, social media contact information, or any other means of contacting an individual.
- 5) "Federal agency" means the United States Immigration and Customs Enforcement (ICE) agency, the United States Customs and Border Protection (CBP) agency and any other federal agency engaged in immigration enforcement operations, including any successor agency charged with the enforcement of federal immigration laws.
- 6) "Immigration enforcement operation" means any operation that has as its main objective the identification or apprehension of a person or persons: 1) in order to subject them to civil immigration detention, removal or deportation proceedings, and/or removal or deportation from the United States; or 2) to criminally prosecute a person or persons for offenses related to immigration status, including but not limited to violations of Sections 1253, 1304(e), 1306(a) and (b), 1325, or 1326 of Title 8 of the United States Code, or violations of Sections 1028A or 1546 of Title 18 of the United States Code.

IV. Processes and Procedures for Departments.

- 1) Each Metro Agency Department Head or Director shall designate a person within their Metro agency to be notified if an employee or agent receives a request to support or assist in an immigration enforcement operation. The designee shall communicate the request to the Department Head or Director, and document the request in a memorandum to be sent to the Director of the Mayor's Office of New Americans within three business days.

2) On an annual basis, the Mayor's Office of New Americans shall produce and release a public report, on its webpage, describing the total number of such requests received and, for each request, its nature, the requesting federal agency, the Metro agency that received the request, and whether the request was declined or granted.

V. The Metropolitan Department of Law is requested to explore all available remedies at law to determine whether there is a legitimate basis to challenge the legality of HB2315.

VI. In the event HB2315 is repealed by the Tennessee General Assembly or deemed legally invalid by a court of competent jurisdiction, the following provisions of this Section VI. shall take effect immediately thereafter:

1) No person acting in their capacity as a Metro employee or agent shall assist or cooperate with, or allow any Metro agency funds or resources to be used to assist, cooperate with, or facilitate any federal agency in any immigration enforcement operation, except where legally required to do so by state or federal law or by court order, or as provided in Section VI. 2).

2) Unless presented with a valid and properly issued warrant, no Metro agency or Metro employee or agent shall:

A. Permit ICE or CBP agents to access a person being detained by, or in the custody of, the agency or agent;

B. Transfer any person into ICE or CBP custody;

C. Permit ICE or CBP agents to use agency facilities, information, or equipment, including any agency electronic databases, for investigative interviews or other investigative purpose or for purposes of executing an immigration enforcement operation; or

D. Except in the context of a valid public records request or as otherwise required by applicable state or federal law, expend time to respond to ICE or CBP inquiries or communicate with ICE or CBP regarding a person's custody status, release date, home address, work address, or other information.

3) Metro employees, agents or agencies shall not request information from a person about their citizenship or immigration status, unless such inquiry or investigation is required by ordinance, court order, or state or federal law.

VII. **Partnering with Immigrant and Refugee Communities**

The Mayor's Office of New Americans is directed to establish a working group comprised of members of the Mayor's New American Advisory Council, subject matter experts, community representative and Mayor's Office staff to track new developments in immigration policy and enforcement, and to analyze data regarding the impact of Nashville's policies in the changing immigration environment.

VIII. Issuing U-Visas

To protect victims and witnesses of crime and hold violent offenders in our community accountable, the Metropolitan Government of Nashville and Davidson County will:

- 1) Continue to fully participate in the federal U-Visa program to ensure victims of crime are given the protection needed to effectively hold violent offenders accountable for their crimes.
- 2) Continue to support, and provide additional resources where necessary, to the Office of Family Safety's Jean Crowe Advocacy Center to ensure victims and witnesses of crime have a safe place to wait while attending court appearances;
- 3) Assess the needs of the Metropolitan Nashville Police Department and the Davidson County District Attorney's Office to expedite the process of providing U-Visas to witnesses and victims of crime.

IX. Revising Municipal Citations. To minimize fear within members of our community, Metropolitan Nashville Police Department officers will not inquire about people's country of origin unless necessary for identification purposes and shall remove country of origin from municipal citations.

X. Informing municipal agencies and employees. The Metro Clerk shall send copies of this Order, including any future amendments thereto, to every Metro Agency. Each Metro Agency shall provide its employees with a written directive, protocol, or instructions for implementing this Order within thirty (30) days of this Order and shall provide on an ongoing basis such trainings as are necessary to ensure compliance with this Order.

ORDERED, EFFECTIVE AND ISSUED:

David Briley
Metropolitan County Mayor

Date: September 3, 2019